

# **EXHIBIT 4**

ORIGINAL

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

BARON WALKER, individually and  
on behalf of a class of all  
others similarly situated,

-and-

MILAN HEGGS, individually and on  
behalf of a class of all others  
similarly situated,

-and-

DISABILITY RIGHTS NEW YORK,  
Plaintiffs,

Case No.:  
17-cv-03234  
(RJD) (CLP)

vs.

THE CITY OF NEW YORK; NEW YORK  
CITY POLICE (NYPD) COMMISSIONER  
JAMES P. O'NEILL; NYPD OFFICER  
(P.O.) ROBERT BERNHARDT, P.O.  
MICHAEL G. PARKS; P.O. EDWARD  
NAJARRO; P.O. CARLOS COLON; P.O.  
ROBERT SCHWAB; Detective  
JENNYANN NELSON; Sergeant  
RAYMOND GONZALEZ; P.O. JASON  
WHYTE; Detective BRENDA VASQUEZ;  
Sergeant DAN OSPINA; P.O. EDWARD  
VAVRUICK; Sergeant JERRY  
SUKHNANDAN; JOHN DOES 1-6,  
Defendants.

May 22, 2019  
10:27 a.m.

Deposition of DEPUTY INSPECTOR ROBERT M. HALEY,  
taken by Plaintiff, held at the offices of Beldock,  
Levine & Hoffman, LLP, 99 Park Avenue, New York, NY  
10016, pursuant to order, before Elizabeth F. Tobin,  
a Registered Professional Reporter and Notary Public  
of the State of New York.  
JOB NO. 3398550

1 R. Haley

2 prisoner.

3 Q. I'm sorry. You were saying you create a  
4 prisoner movement slip?

5 A. Yes. That tracks the prisoner from the  
6 time of arrival at the court section through  
7 arraignments.

8 Q. Is there a notation made somewhere in the  
9 prisoner movement slip that the individual has  
10 arrived with a wheelchair?

11 A. Yes.

12 Q. Is that in all cases?

13 MR. LE: Objection.

14 A. It should be in all cases.

15 Q. Is that by policy officers are required  
16 to note in the prisoner movement slip that an  
17 individual has entered custody with a wheelchair?

18 A. Yes.

19 Q. What policy states that?

20 A. That is in the patrol guide. It is in  
21 208-03 arrests general processing.

22 Q. I'm sorry, you said --

23 A. 208-03.

24 Q. Are officers required to note only  
25 wheelchairs or any assistive mobility device?

1 R. Haley

2 A. They should note any assistive mobility  
3 device.

4 Q. And you said that this is another point  
5 at which a record is made at Central Booking that an  
6 individual has entered custody with an assistive  
7 mobility device; is that correct?

8 MR. LE: Objection.

9 A. That is correct.

10 Q. Is a notation made concerning an  
11 assistive mobility device at any time prior to  
12 arrival in Central Booking in the prisoner movement  
13 slip?

14 A. There are two prisoner movement slips.  
15 There's one generated at the command. That covers  
16 time of transportation from the command to the court  
17 section. And there would also be a medical  
18 treatment of prisoner form that should be prepared  
19 at the command also noting that.

20 Q. You said that there are two prisoner  
21 movement slips or were you referring to the prisoner  
22 movement slip and the medical treatment of prisoner  
23 form?

24 A. There are two prisoner movement slips and  
25 one medical treatment of prisoner form.

1 R. Haley

2 Q. And so the first prisoner movement slip  
3 is made at the command and the second prisoner  
4 movement slip is created at Central Booking?

5 A. Correct.

6 Q. The notation of an assistive mobility  
7 device should occur in both prisoner movement slips  
8 at the command and at Central Booking?

9 A. Yes.

10 Q. So you've identified two manners in which  
11 at Central Booking the Criminal Justice Bureau has  
12 identified individuals entering custody with  
13 assistive mobility devices; first, by means of a  
14 call from the command and, second, by means of a  
15 notation in a prisoner movement slip; is that  
16 accurate?

17 A. Yes.

18 Q. Are there any other means by which the  
19 Central Booking or the Criminal Justice Bureau  
20 records or assesses whether an individual has  
21 entered custody with an assistive mobility device?

22 A. They would also be accompanied with a  
23 medical treatment of prisoner form and it would be  
24 documented on there as well. Those would be the  
25 only two places for prisoner -- for an arrestee when

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2 record it. That's how I have that numbered.

3 Each court section, likewise, would  
4 maintain their own numbers. For the Brooklyn  
5 section they would know how many persons using  
6 wheelchairs came to Brooklyn. Bronx, would have how  
7 many are in the Bronx. But each court section  
8 wouldn't ordinarily know the other court sections.  
9 Does that make sense.

10 Q. Where is that information recorded end?

11 A. At the Criminal Justice Bureau we  
12 maintain it in a spreadsheet.

13 Q. When you say in a spreadsheet, do you  
14 mean an Excel spreadsheet?

15 A. Excel spreadsheet.

16 Q. In each borough is it similarly  
17 maintained, that list or that recording of an  
18 individual entering custody with an assistive  
19 mobility device in an Excel spreadsheet?

20 MR. LE: Objection.

21 A. I do not know 100 hundred percent. It  
22 may be one or the other.

23 Q. So it may be an Excel spreadsheet or it  
24 may be a written logbook?

25 A. Yes.

1 R. Haley

2 Q. When you say logbook, could it be an  
3 electronically stored log or are you referring to a  
4 written paper notation?

5 A. I'm referring to a written paper  
6 notation.

7 Q. And when you said earlier that you're  
8 also tracking any assistive mobility device, is that  
9 similarly recorded in either the Excel spreadsheet  
10 or the written log at each of those borough court  
11 sections?

12 A. Yes.

13 Q. When I say assistive mobility device, do  
14 you understand what I am describing?

15 A. Yes.

16 Q. That may include items such as a walker  
17 or a crutch or a scooter, for instance, but not  
18 exclusively those items, inclusive to any type of  
19 assistive technology that may assist a person with  
20 mobility impairments in ambulating?

21 MR. LE: Objection.

22 A. I understand.

23 Q. You said that you are recording,  
24 individually, your borough court section records in  
25 an Excel spreadsheet; is that correct?

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2 A. The borough office, the Criminal Justice  
3 Bureau office records it on an Excel spreadsheet.

4 Q. Is that the aggregated information across  
5 all of the boroughs or something else?

6 A. It's the aggregated information.

7 Q. Across all the boroughs?

8 A. Across all the boroughs, yes.

9 Q. Would you be able to search that Excel  
10 spreadsheet of aggregated statistics across all  
11 boroughs for the number of individuals who entered  
12 Central Bookings across all boroughs with  
13 wheelchairs?

14 A. Yes.

15 Q. Would you be able to search that Excel  
16 spreadsheet for the number of individuals who  
17 entered Central Booking custody across all boroughs  
18 with assistive mobility devices?

19 MR. LE: Objection.

20 A. Yes.

21 Q. Are you familiar with the PET system?

22 A. Yes.

23 Q. Has the Criminal Justice Bureau at any  
24 time searched the PET system for assistive mobility  
25 devices?



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2 mobility device came to us without that device, I  
3 would be notified of that.

4 MS. CASSELL-STIGA: Sorry. Maybe you  
5 should read back that answer.

6 Q. Are you saying that if they came to your  
7 division with an assistive mobility device you would  
8 be aware?

9 A. Yes. I would be aware. But I am also  
10 saying I am pretty sure that I would get a  
11 notification if we had something unusual in that  
12 arrest process, like a person who had an assistive  
13 mobility device but needed that and then didn't have  
14 that when they came down to the Criminal Justice  
15 Bureau.

16 Q. Are you saying that you believe that you  
17 would be getting notifications for individuals who  
18 had an assistive mobility device removed and  
19 inventoried and are arriving or being transported  
20 not with an assistive mobility device?

21 MR. LE: Objection.

22 A. I believe I would be.

23 Q. In all cases?

24 A. I would hope in all cases.

25 Q. Where is the requirement for an officer

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2 to inform you of an individual that might require  
3 assistive devices but does not have an assistive  
4 device when entering Central Booking custody?

5 MR. LE: Objection.

6 A. Every 24 hours the Criminal Justice  
7 Bureau is informed of unusual occurrences in the  
8 court sections via an e-mail and it will list  
9 various things that are going on that are of  
10 interest that we should know about. I believe that  
11 if that were the type of situation or occurrence  
12 where a prisoner needed an assistive mobility device  
13 and didn't have it, that should be in that  
14 notification system.

15 Q. Correct me if I'm not gathering this  
16 correctly, but you're saying that there is a system  
17 to notify you of unusual occurrences and that you  
18 believe that the category of individuals I'm  
19 describing of individuals who no longer have their  
20 assistive mobility device and no longer are  
21 accompanied by their assistive mobility device would  
22 be reported to you by means of the unusual  
23 occurrence?

24 MR. LE: Objection.

25 A. Police department has a separate

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2 procedure called unusual occurrence. That is not  
3 the procedure you're referring to in this instance.  
4 I'm talking about an internal type of system where,  
5 you know, we have things that are out of the  
6 ordinary every day that occur in the five court  
7 sections. The commanding officers want the borough  
8 office to know about that just in case anything ever  
9 happens or comes to be with that, so we should be  
10 notified if something out of the ordinary were to  
11 occur.

12 Q. Is that a formal procedure that an  
13 individual who is requesting or has need for an  
14 assistive mobility device and does not have one in  
15 their possession would be reported by means of the  
16 unusual occurrence or to your office as you  
17 described?

18 MR. LE: Objection.

19 A. It's not formal in that it's written down  
20 or documented anywhere.

21 Q. You believe there is an informal  
22 understanding that officers who observe or learn of  
23 an individual that requires an assistive mobility  
24 device and does not have one would report that to  
25 your office?

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2 MR. LE: Objection.

3 A. Yes.

4 Q. Is it possible that there are individuals  
5 that are not captured in your Excel spreadsheet's  
6 summary statistics concerning individuals with  
7 assistive mobility devices entering custody at  
8 Central Booking --

9 MR. LE: Objection.

10 MS. CASSELL-STIGA: Withdrawn.

11 Q. Is it possible that there are individuals  
12 who require assistive mobility devices to ambulate  
13 that enter custody at Central Booking and are not  
14 recorded in your summary Excel spreadsheet that you  
15 described?

16 A. Anything is possible.

17 Q. Are you aware of situations in which  
18 individuals have entered custody at precinct and  
19 have had their assistive mobility devices  
20 inventoried at that time?

21 MR. LE: Objection.

22 A. I primarily concern myself with the  
23 Criminal Justice Bureau and our court sections, so  
24 I'm not a hundred percent -- I'm not aware of any  
25 instances where individuals with assistive mobility

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2 devices had them removed and vouchered in the  
3 precincts.

4 Q. And you say that's because that's not  
5 within your purview, the occurrences at precincts;  
6 is that correct?

7 A. Correct.

8 Q. Earlier you described the Criminal  
9 Justice Bureau as not supervising the PET system or  
10 having kind of custody of that information  
11 management system; is that correct?

12 MR. LE: Objection.

13 A. Yes.

14 Q. What information management systems does  
15 the Criminal Justice Bureau supervise or have  
16 custody of?

17 A. Criminal Justice Bureau utilizes the  
18 online prisoner arraignment system.

19 Q. You said online prisoner arraignment  
20 system?

21 A. Yes, OLPA or --

22 Q. Any other information management systems  
23 that you utilize or implement?

24 MR. LE: Objection.

25 A. That is the one.

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2 also obtained during arrest processing; is that  
3 correct?

4 A. Correct.

5 Q. Is that also true from the BADS system,  
6 the ARC system and the other systems that we've  
7 identified earlier?

8 A. That's correct.

9 Q. You're only prepared to give testimony  
10 about that information contained in the online  
11 prisoner arraignment system?

12 A. That is correct.

13 Q. Where in the online prisoner arraignment  
14 system is an officer required to record the fact of  
15 an individual having a mobility disability or  
16 impairment?

17 MR. LE: Objection.

18 A. Until the online prisoner arraignment  
19 system we would record -- the Criminal Justice  
20 Bureau, the court sections, would record that fact  
21 in a notes section.

22 Q. Is that by policy?

23 A. Yes.

24 Q. What policy requires officers to record  
25 the existence of a mobility disability or impairment

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of an arrestee in the notes section of OLPA or  
online prisoner arraignment system?

A. So that policy is Criminal Justice Bureau  
policy. It's not stated -- it's not written in the  
patrol guide. It's policy where if we have an  
arrestee, a prisoner who has a warrant and we have  
to record that information, that would go in that  
section. If they had an ICE detainer, that would go  
in that section. If an arrest was being held up  
because of a detective investigation, that would be  
noted in that secretaries or if there's some type of  
hospitalization of the prisoner or medical condition  
of the prisoner would all be noted in that notes  
section.

Q. That's not required in any written or  
formal policy; is that correct?

MR. LE: Objection.

A. That is correct.

Q. But it is your informal understanding of  
the practice of the NYPD; is that correct?

MR. LE: Objection.

A. That is the practice of the Criminal  
Justice Bureau when it relates to prisoners. We  
would need to know, want to know, like to know,

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2 Q. In all cases would a person who is an  
3 arrestee with a mobility disability or impairment be  
4 considered a special category prisoner?

5 MR. LE: Objection.

6 A. Yes.

7 Q. You just described yourself, your office,  
8 making this notation in the online prisoner  
9 arraignment system. Would such notation in the  
10 notes section of OLPA, online prisoner arraignment  
11 system, occur at the precinct by someone outside of  
12 your office, by an officer at the precinct --

13 MR. LE: Objection.

14 Q. -- prior to notification to your office?

15 MR. LE: Objection.

16 A. Okay. So based on my knowledge of arrest  
17 processing, it would not be entered into anything  
18 other than the command log that records the  
19 prisoner's presence in the command which is pedigree  
20 information as well as physical, mental condition of  
21 the prisoner.

22 Q. So at the precinct when an individual is  
23 arrested and brought to a precinct, a mobility  
24 impairment or disability would be recorded in the  
25 command log but not elsewhere; is that correct?



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2 A. I cannot recall at this time if there is.

3 Q. If there is such a field, would an  
4 officer be required to note the existence of a  
5 mobility impairment or disability in a physical  
6 condition field?

7 MR. LE: Objection.

8 A. My knowledge of the patrol guide and the  
9 procedures of the arrest and arrest report  
10 preparation, there's no indication anywhere for an  
11 officer to do that.

12 Q. So the patrol guide does not require  
13 officers to make a notation of a -- withdrawn.

14 The patrol guide does not require  
15 officers to make a notation of a mobility impairment  
16 or disability in the Omniform arrest report?

17 MR. LE: Is that a question?

18 Q. Is that correct?

19 A. Yeah, that's correct.

20 Q. At what time is the prearrest  
21 screening report made?

22 MR. LE: Objection.

23 A. Can you clarify which prearrest  
24 screening report you're referring to and by whom?

25 Q. Are there multiple prearrest

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2 who appear ill, injured or emotionally disturbed  
3 obtain appropriate medical psychiatric treatment.  
4 And it says, CPG 210-04 prisoners requiring medical,  
5 psychiatric treatment.

6 So in those cases that prisoner requiring  
7 medical attention form would be prepared.

8 Q. I understand that the command log is  
9 completed by the desk officer. Is there anything in  
10 this patrol guide procedure 208-03 arrest processing  
11 that requires the arresting officer to make a  
12 notation of a mobility impairment or a disability in  
13 the medical treatment of prisoner form or prisoner  
14 movement slip?

15 A. That is not in this section of the patrol  
16 guide.

17 Q. You said that the medical treatment of  
18 prisoner form is directed to be prepared if an  
19 individual requires medical or psychiatric treatment  
20 or has previously -- but there's no requirement in  
21 this document that the medical treatment of prisoner  
22 form be prepared if an individual has a mobility  
23 disability or impairment, correct?

24 A. That appears in 210-17, special category  
25 of prisoners, where it directs that it be prepared

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2 for a special category of prisoner and the mobility  
3 impaired prisoner would be determined or classified  
4 as a special category prisoner.

5 Q. That section of the patrol guide requires  
6 what to be prepared?

7 A. Medical treatment of prisoner form.

8 Q. There's no section of the patrol guide  
9 that requires that a prisoner movement slip be  
10 prepared or note that there is a mobility impairment  
11 or disability; is that correct?

12 MR. LE: Objection.

13 A. I answered that earlier. That is under  
14 210 section with prisoners with the court section  
15 personnel, also special category for us to enter  
16 that.

17 Q. So only at the court section. But at the  
18 precinct an officer is not required to make a  
19 notation of a mobility disability or impairment in  
20 the prisoner movement slip by orders of the patrol  
21 guide; is that correct?

22 A. That is correct.

23 Q. At the bottom of the page marked 1352  
24 there is a list of related procedures. Do you see  
25 the special category prisoner patrol guide section

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2 by the time court goes down, the AO's command is  
3 contacted to transport the prisoner back to the  
4 command until court reopens.

5 Q. Is that procedure in place because the  
6 Manhattan court section does not have accessible  
7 cells to house overnight individuals with mobility  
8 disabilities and impairments?

9 MR. LE: Objection.

10 A. With the exception of the Brooklyn court  
11 section and the Staten Island court section,  
12 prisoners in these other court sections are guarded  
13 by the Department of Corrections. So to the extent  
14 that we don't have cell space, the Department of  
15 Corrections would have to accept that prisoner, that  
16 prearrestment prisoner, and hold that prisoner for  
17 arraignment.

18 Q. I'm asking about the accessibility  
19 characteristics of the holding cell. Is this bullet  
20 point applicable in Manhattan court section in  
21 existence because there are no ADA accessibility  
22 cells for housing or holding the prearrestment  
23 arrestee who has a mobility disability or impairment  
24 at Manhattan court overnight?

25 A. So, there are -- well --

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2 MR. LE: Can you read back the question,  
3 please.

4 (Record read.)

5 A. I believe the cells in the Manhattan  
6 court section, the special cells, the bathrooms in  
7 those cells are ADA compliant as per this document  
8 and that would make the cell also ADA compliant.

9 Q. So why is the procedure to return a  
10 prearrestment prisoner with a wheelchair to the  
11 precinct command if they're going to be housed  
12 overnight?

13 A. The Manhattan court section returns all  
14 prisoners who are designated specials to all  
15 precincts at night when court goes down.

16 Q. Why is that?

17 A. Just a matter of policy.

18 Q. Is that because there is no wheelchair  
19 accessible restrooms in cells for prearrestment  
20 arrestees with mobility disabilities?

21 A. There are ADA compliant cells.

22 Q. Do those ADA compliant cells utilized for  
23 prearrestment prisoners in Manhattan court section  
24 have ADA compliant toilets?

25 A. Yes.

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2 wheelchair accessible vehicle; is that correct?

3 A. I'm sorry. Could you read that question  
4 back?

5 (Record read.)

6 A. That is correct.

7 Q. Is there anyplace with -- withdrawn.

8 Is there any written policy that states  
9 that where it says if required means that only if  
10 the borough court section -- withdrawn.

11 Is there any written policy that provides  
12 further guidance that where here it says if required  
13 it actually means in all situations special  
14 transportation is required?

15 MR. LE: Objection.

16 A. I'm sorry.

17 Q. Withdrawn. Here it says special  
18 transportation will be provided if required. Is  
19 there any policy, written formal policy, that states  
20 that special transportation must be provided in all  
21 situations for prisoners in a wheelchair?

22 A. No.

23 Q. Is there any policy that states special  
24 transportation must be provided to all individuals  
25 with mobility disabilities or impairments?

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2 MR. FLIEDNER: Can you mark that 24.

3 (Plaintiffs' Exhibit 24, 3/1/18

4 operations order number 12, marked for

5 identification.)

6 Q. Sir, do you recognize this document?

7 A. Yes.

8 Q. Can you please describe it for the

9 record?

10 A. This is an operations order number 12  
11 dated 3/1/18. And the subject is pilot program  
12 utilization of department vehicles equipped with  
13 Americans with Disabilities Act compliant list when  
14 transporting arrestees with mobility disabilities  
15 within patrol borough Brooklyn North and patrol  
16 borough Brooklyn South.

17 Q. So, again, to clarify, an operations  
18 order goes out to who?

19 A. This goes out to all commands.

20 Q. To a commanding officer? Is there a  
21 standard protocol for who it goes to?

22 A. This goes out over the intranet, the  
23 department intranet.

24 Q. Every police officer would have access to  
25 it; is that correct?

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2 A. Yes, that's correct.

3 Q. What date was this, in fact, issued?

4 A. 3/1/18.

5 Q. And it would then be in effect on that  
6 date or was there a separate provision in this  
7 matter for implementation?

8 A. This says effective immediately, so it  
9 would be that same day.

10 Q. You said it would be available on the  
11 intranet. Was it brought to the attention of  
12 members of service by any other means other than  
13 their ability to access this on the intranet as of  
14 that date?

15 MR. LE: Can you read that back?

16 (Record read.)

17 A. I don't know.

18 Q. So it may have been or -- that may have  
19 been the only means by which the information was  
20 provided to them?

21 A. The beginning of this procedure, number  
22 one, the actor is the patrol borough commander. So  
23 it's directing the patrol borough commanders of  
24 Brooklyn North and Brooklyn South to make sure that  
25 training is provided to the training bureau.



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2 A. I'm clear about that. Did you ask the  
3 question already?

4 MS. CASSELL-STIGA: Read it back for him,  
5 would you?

6 (Record read.)

7 A. That I do not know.

8 Q. Any guidelines provided, if you know, for  
9 how to identify somebody with a mobility disability  
10 who was in need of this form of transport?

11 A. I would think it is fairly apparent to an  
12 arresting officer that their prisoner needs some  
13 type of mobility assistance.

14 Q. Well, that's not the question. Let me  
15 ask you this question again: Do you know if there  
16 were guidelines that were set forth about how to  
17 best determine whether this is somebody that needs  
18 this -- that requires this form of assistance?

19 MR. LE: Of assistance?

20 MR. FLIEDNER: Yeah.

21 A. I do not know.

22 Q. Then there's obviously -- there are  
23 references in the operations order to -- referring  
24 back to operations order 12 which has to do with the  
25 complainants and victims who are people with

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2 disabilities, do you have any way to know was  
3 guidance provided for how that -- compliance with  
4 operation 12 should fit into this new operations  
5 order?

6 MR. LE: Objection.

7 A. No, I don't.

8 Q. Do you know who would be the person that  
9 would be able to answer that question?

10 MR. LE: Objection.

11 A. It would be deputy commissioner of  
12 support services.

13 Q. Do you have the name of that individual  
14 at this time?

15 A. No, I do not.

16 Q. Lastly, would you have been in a position  
17 to determine and document compliance with the  
18 directive since March 1st of 2018 or does it fall to  
19 the Brooklyn North and Brooklyn South to do that  
20 because of the designation?

21 MR. LE: Objection.

22 A. It falls to Brooklyn North and Brooklyn  
23 South because there will be prisoners who are just  
24 transported to a command and receive a desk  
25 appearance ticket and never make their way to

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2 Central Booking.

3 Q. You don't have any information about  
4 specific auditing compliance or anything like that  
5 since it was issued back on March 1st, 2018?

6 A. That's correct.

7 MR. LE: Objection.

8 MR. FLIEDNER: Mark this 25.

9 (Plaintiffs' Exhibit 25, 6/8/18  
10 operations order 35, marked for  
11 identification.)

12 Q. Take a moment to look at that and tell me  
13 if you recognize that document.

14 A. I recognize this.

15 Q. With a do you recognize this to be?

16 A. This is operations order number 35 dated  
17 6/8/18, operational guidelines for Americans with  
18 Disabilities Act compliance.

19 Q. And what is the purpose of this specific  
20 operations order?

21 A. It's to inform members of the New York  
22 City Police Department how to interact with persons  
23 with disabilities and -- I'm sorry. It gives a  
24 bunch of definitions here, facilitate access to  
25 Department of Services' programs and activities for